

**MINUTES OF THE  
UTAH CONSTITUTIONAL REVISION COMMISSION**  
Friday, December 5, 2008 – 1:00 p.m. – Room C450 State Capitol

**Members Present:**

Judge Jon M. Memmott, Vice-Chair  
Rep. Sheryl L. Allen  
Rep. David Litvack  
Ms. Lisa Watts Baskin  
Mr. Byron L. Harward  
Dr. Michael Petersen  
Mr. Roger Tew

**Members Absent:**

Mr. Kevin J. Worthen, Chair  
Sen. Mike Dmitrich  
Sen. Peter Knudson  
President John L. Valentine  
Rep. Ronda Rudd Menlove  
Mr. Kirk Jowers  
Mr. Robin L. Riggs  
Ms. Kristine Strachan

**Staff Present:**

Mr. Jerry D. Howe, Policy Analyst  
Mr. Robert H. Rees, Associate General Counsel  
Ms. Amanda K. Majers, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Vice-Chair Memmott called the meeting to order at 1:18 p.m. Sen. Dmitrich, Rep. Menlove, Mr. Jowers, Mr. Riggs, and Mr. Worthen were excused from the meeting.

No quorum was present at this meeting.

**2. Selection of New Commission Chair**

This agenda item was not discussed.

**3. Death Penalty and Post-conviction Amendments**

Mr. Thomas Brunker, Assistant Attorney General, Utah Office of the Attorney General, distributed and discussed "Effective Death Penalty and Post-conviction Reform Constitutional Amendment," which was distributed to the Commission prior to the meeting. He explained that the proposed language prepared by the Office of the Attorney General has been changed from the previous draft that was discussed at the Commission's last meeting to incorporate recommendations made by the Commission. Mr. Brunker stated that the proposed constitutional amendment would give the Legislature full power over the area of post-conviction review with the exception that it could never bar a claim for actual innocence.

Mr. Fred Voros, Chief of the Criminal Appeals Division, Utah Office of the Attorney General, stated that the proposed constitutional language incorporates provisions to prevent the Legislature from being able to bar post-conviction relief for actual innocence and to prevent the Legislature from abolishing the Post-conviction Remedies Act with respect to claims for actual innocence.

Mr. Brunker and Mr. Voros answered questions from the Commission.

Ms. Watts Baskin discussed *Gardner v. Galetka*, 94 P.3d 263 (Utah 2004), which was distributed to the Commission prior to the meeting.

Mr. Daniel Medwed, Associate Professor of Law, University of Utah, spoke in opposition to the proposed constitutional amendment.

Mr. Richard Mauro, Chair, Utah Association of Criminal Defense Lawyers, spoke in opposition to the proposed constitutional amendment.

Mr. Harward distributed and discussed *Kell v State of Utah*, 612 Utah Adv. Rep. 22 and discussed aspects of the proposed constitutional language.

Mr. Brunker, Mr. Voros, Mr. Medweb, and Mr. Mauro answered questions from the Commission.

Mr. Kent Hart, Utah Federal Defender's Office, spoke against the proposed constitutional amendment.

#### **4. Farewell to Senator Mike Dmitrich and Ms. Kristine Strachan**

This agenda item has been postponed.

#### **5. Other Business / Adjourn**

Vice-Chair Memmott adjourned the meeting at 3:58 p.m.